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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,262	06/26/2002	Adeyinka Adediji	08CN8824-4	1237
23413	7590	03/18/2004	EXAMINER	
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			SZEKELY, PETER A	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/064,262

Applicant(s)

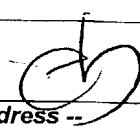
ADEDEJI ET AL

Examiner

Peter Szekely

Art Unit

1714



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Adedeji et al. 6,486,244 or Adedeji et al. 6,258,879.

3. Adedeji et al. ('244) disclose PPE and organophosphate in claim 1, tapered block copolymers in column 3, lines 30-63, different phosphates from column 4, line 43 to column 5, line 67, impact modifiers in column 4, lines 8-42, PPE molecular weights in column 3, lines 19-29. For the ratio of PPE, HIPS and phosphate see column 6, lines 31-35. The contents of Adedeji et al. ('879) are similar. Applicants' claims are not novel. The transparency and the flame retardance are inherent in the composition.

4. Claims 1-25 and 27 are rejected under 35 U.S.C. 102(b or e) as being anticipated by Burnell et al. 6,165,309 or General Electric EP 0 124 916, with Adedeji et al. 6,274,670 used as a teaching reference.

5. Burnell et al. teach PPE and vinyl aromatic copolymer in claim 1, phosphates in claim 4, impact modifiers in column 7, lines 33-50 and polystyrene and tapered block copolymers in column 8, lines 20-26. Concentrations are shown in column 9, lines

45-49. General Electric recites PPE, block copolymer, polystyrene, impact modifier and phosphates in claim 1 and tapered block copolymers on page 4, line 18. Applicants' claims are not novel. The transparency and the flame retardance are inherent in the composition. Adedeji et al. ('670) proves in claims 6 and 16 that mineral oil, especially in the concentration of 2 parts, does not affect the transparency.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnell et al. 6,165,309 or General Electric EP 0 124 916, in view of Hellstern-Burnell et al., further in view of Adedeji et al. 6,165,309.

8. All references have been discussed already. The fillers are optional additives. A reference is not limited to its preferred embodiment or Illustrative Examples. The transparency and the flame retardance are inherent in the composition. The rejections are maintained.

***Response to Arguments***

9. Applicant's arguments filed 1/27/04 have been fully considered but they are not persuasive. Burnell et al., in claim 4, claim PPE, styrenic copolymer and phosphate flame retardant. There is no filler in the composition claimed by said claim 4. A reference can claim both transparent and opaque compositions. Applicants' claim 17 claims fillers and colorants, proving that the presence of these ingredients does not necessarily interfere with transparency. Claim 1 of General Electric does not claim

fillers. Claims 6 and 16 of Adedeji et al. ('670) prove that mineral oil does not interfere with transparency. Hellstern-Burnell et al. is cited only to show the obviousness of the claimed molecular weight. The transparency and flame retardance are inherent in the composition. The rejections are maintained. The burden is shifted to applicants' to prove that the unfilled compositions of the cited references do not meet the required transparency standard, while the filled composition of applicants' does meet them.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Peter Szekely  
Primary Examiner  
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